IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 27 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMM. OF CENTRAL EXCISE & CUSTOMS

Versus

OMKAR TEXTILES LTD.

Appearance:

MR ASIM J PANDYA for Petitioner.

RULE SERVED for Respondents.

CORAM : MR.JUSTICE R.K.ABICHANDANI

and

MR.JUSTICE K.A.PUJ

Date of decision: 08/02/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

The Tribunal is directed to refer the following question of law that arises in the matter and forward Statement of Case in respect thereof under Section 35H of the Central Excise Act, 1944, expeditiously in view of the fact that similar question has already been decided by this Court in CECG Reference No. 1 of 2001:

"Do the provisions of confiscation and penalty contained in the Central Excise Act, 1944, apply to the goods chargeable to the additional duty of central excise under The Additional Duties of Excise (Goods of Special Importance) Act, 1957, in view of Section 3(3) thereof ?"

2. Rule is made absolute accordingly with no order as to costs.

[R.K. Abichandani, J.]

rmr. [K.A. Puj, J.]